

Corporation Tax Determination
A-2
Metrick, Robert, Co., Inc.

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE
BOARD OF CONFERES - CORPORATION TAX BUREAU

In the Matter of the Application :
of :
ROBERT METRICK CO., INC. :
for revision or refund of tax assessed : Hearing Case No. 6456
under Section 209.1-a of the Tax Law :
based on the calendar year 1961. :

The report due March 1, 1962 was filed on February 28, 1962 showing no tax due because the balance sheet showed a deficit as of December 31, 1961.

Based on a report of examination by the Mineola office, a tax was computed as follows:

Deficit - 3/31/61	(\$158,534.82)
Estimated loss 4/1/61 - 12/31/61	(6,438.04)
Estimated deficit as of 12/31/61	(164,972.86)
Deferred profit 12/31/61	1,368,569.67
Earned surplus - 12/31/61	1,203,596.81
Tax at 2%	24,071.94
Penalty	9,149.33
Total	\$ 33,221.27

The foregoing assessment was not billed until September 17, 1965 and is not in order as the amount of tax due had to be determined within three years after the report was filed (March 1, 1965) under the provisions of Section 212, paragraph 2, of the Tax Law.

An application for revision or refund filed on October 27, 1967 is not timely as it was not filed within one year from the time the tax was recomputed as required by Section 214 of the Tax Law.

It was not our practice under Section 209.1-a of the Tax Law to include deferred profits in computing net worth unless it was included therein by the taxpayer. That was so because the deferred profits would be taxed at the rate of 5½% when reported as income under Article 9A of the Tax Law.

During November, 1962, the taxpayer was forced to foreclose said mortgage because of non-payment, thus eliminating the deferred profit.

As the foregoing indicates, the assessment was illegal and improper and has been cancelled.

/s/

W. F. SULLIVAN
Chairman

/s/

D. H. GILHOOLY

/s/

J. J. GENEVICH

WFS:MB
11/14/67

Approved
E. A. DORAN